

HONORABLE JUDGE BENJAMIN H. SETTLE

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

COLUMBIA RIVERKEEPER, a Washington  
non-profit corporation,

Plaintiff,

v.

CHINOOK VENTURES, INC., DBA  
CHINOOK VENTURES LV, a Nevada  
corporation

Defendant.

Case No. 3:09-cv-05707-BHS

JOINT STATUS REPORT AND  
DISCOVERY SCHEDULE

(Federal Water Pollution Control Act,  
33 U.S.C. §§ 1311 and 1342)

In response to the Court's Minute Order of June 10, 2010 [Dkt#21], the parties  
submit the following:

**1. Nature of the Case.** This is a Clean Water Act citizen suit case filed under 33  
U.S.C. § 1365. Plaintiff alleges that Defendant has violated various provisions of the Clean  
Water Act at Defendant's facility located in Longview, Washington on the Columbia River.  
Defendant denies Plaintiff's allegations. Plaintiff is seeking declaratory and injunctive relief  
and the imposition of civil penalties on Defendant. Plaintiff also seeks to recover attorney  
fees and costs for the litigation. Defendant denies that Plaintiff is entitled to any relief in this

JOINT STATUS REPORT AND DISCOVERY  
SCHEDULE: Case No. 3:09-cv-05707-BHS - 1

SCHWABE, WILLIAMSON & WYATT, P.C.  
Attorneys at Law  
Pacwest Center  
1211 SW 5th Ave., Suite 1900  
Portland, OR 97204  
Telephone 503.222.9981 Fax 503.796.2900

1 matter.

2 **2. FRCP 26(f) Conference.** The parties held the FRCP 26(f) conference by phone and  
3 email with several communications between February 15 and February 24, 2010.

4 **3. Joinder.** The parties propose October 31, 2010 as the deadline for joining additional  
5 parties.

6 **4. ADR Statement.** The parties are presently working in good faith, without the help of  
7 a third party neutral, to resolve this case. Both parties are optimistic at this point. If  
8 settlement should fail, the parties agree this case is appropriate for alternative dispute  
9 resolution and would like to pursue a Judicial Settlement Conference as previously approved  
10 by this Court on April 21, 2010. The parties will endeavor to attend a judicial settlement  
11 conference prior to the end of December 2010. The parties agree that arbitration is not  
12 appropriate for this case.

13 **5. Mediation Schedule.** The will attempt to schedule a mediation immediately if  
14 settlement discussions break down and will attend a Judicial Settlement Conference no later  
15 than early December 2010.

16 **6. Discovery Plan**

17 **a. FRCP 26(f) Conference & Initial Disclosures.** The FRCP 26(f) conference  
18 took place between February 15 and February 24, 2010. The parties submitted  
19 initial disclosures on March 10, 2010.

20 **b. Discovery Subjects.** Plaintiff indicates it will seek discovery of information and  
21 facts relating to Defendant's past, present and future discharges of any pollutants  
22 into waters of the United States as those terms are defined by the Clean Water  
23 Act. Defendant will seek discovery of facts related to Plaintiff's standing to sue  
24 in this case. The parties agree discovery need not be conducted in phases, but  
25 note that expert discovery, if necessary, will likely take place after fact discovery  
26

1 is complete.

2 **c. Limitations.** Defendant requests that a protective order be issued for discovery  
3 of facts related to its business practices that are commercially sensitive. Plaintiff  
4 and Defendant will present the Court with a stipulated proposed protective order  
5 to address this issue.

6 **d. Management to Minimize Expenses.** The parties agree that mediation or a  
7 Judicial Settlement Conference should take place before expert discovery takes  
8 place. This is expected to minimize expense by reducing fees associated with  
9 expert discovery. The parties may also agree to informally share documents.

10 **e. Other Orders.** Other than as presented above, the Parties are not requesting any  
11 additional orders at this time.

12 **7. Completion of Discovery.** The parties anticipate discovery can be completed by  
13 November 30, 2010.

14 **8. Magistrate Judge.** Defendant does not agree to the assignment of this case to a  
15 magistrate judge.

16 **9. Bifurcation.** The parties anticipate that at least some of the issues in this case can be  
17 resolved in motions for summary judgment. To the extent liability issues cannot be resolved  
18 on summary judgment, the parties do not object to bifurcating liability issues and trying them  
19 prior to damage issues.

20 **10. Pretrial Statements and Pretrial Order.** Defendants believe that pretrial  
21 statements and a pretrial order are not necessary in this case and requests that they be  
22 dispensed in the interest of judicial economy. Plaintiff believes that a pretrial statement,  
23 pretrial conference and pretrial order will be necessary, however Plaintiff is willing to revisit  
24 this conclusion as the case progresses and would only seek these activities if they would  
25 promote judicial efficiency.  
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11. The parties do not have other suggestions for shortening or simplifying this case.
12. **Trial Date.** The parties expect this case can be ready for trial June 2011.
13. **Jury/Non-Jury.** This is a non-jury case.
14. **Trial Days.** The parties anticipate they will need four days for trial.
15. **Unavailability of Counsel.** Trial counsel do not anticipate complications that should be considered in setting a trial date.
16. **Vancouver Federal Building.** The parties request that this case be considered for trail at the Federal Building in Vancouver, Washington, based on the location of the activities that are the subject of this case as well as the location of many potential witnesses in the case.
17. All defendants have been served.
18. **Litigation Schedule.** The parties have agreed on the following litigation schedule, should settlement fail:

Opening of Fact Discovery:	February 20, 2010
Site Visit by Plaintiff & Plaintiff's Expert if Defendant sells facility <sup>1</sup> :	October 2010
Site Visit by Plaintiff and Plaintiff's Expert if Defendant does not sell facility:	November 2010
Last day to Join Add'l Parties	October 31, 2010
Completion of Fact Discovery:	November 30, 2010
Judicial Settlement Conference:	Early December 2010

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<sup>1</sup> Defendant is negotiating with a potential buyer for the facility and the closing date is currently set for late October.

1	Disclosure of Experts and Reports:	December 15, 2010
2	Last Day for Rebuttal Expert disclosure:	January 15, 2011
3	Close of Expert Discovery:	February 15, 2011
4	Deadline for Dispositive Motions	March 15, 2011
5	Trial (3 days)	June 2011

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8 Dated this 27th day of September, 2010.

9 Respectfully submitted:

10 SCHWABE, WILLIAMSON & WYATT, P.C.

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12 By: /s/ Laura Maffei  
Laura Maffei, R.G., WSBA #34619  
13 Brien J. Flanagan, WSBA #38467  
Attorneys for Defendant  
14 Chinook Ventures, Inc.

15 FIELD JERGER LLP

16

17 By: /s/ R. Scott Jerger  
18 R. Scott Jerger (*pro hac vice*, OSB  
#02337; WSBA#42812)

19 Attorneys for Plaintiff  
20 Columbia Riverkeeper

21 SCOPE LAW FIRM

22

23 By: /s/ Richard Poulin  
24 Richard Poulin, WSBA #27782  
Attorneys for Plaintiff  
25 Columbia Riverkeeper  
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Attorneys at Law  
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Portland, OR 97204  
Telephone 503.222.9981 Fax 503.796.2900